

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JUSTIN MITCHELL OLIVER,)	CV 18-00425-LEK-RLP
)	
Plaintiff(s),)	
)	DEFICIENCY ORDER
vs.)	
)	
STATE OF HAWAII,)	FILED IN THE
)	UNITED STATES DISTRICT COURT
)	DISTRICT OF HAWAII
Defendant(s).)	November 2, 2018
_____)	At 4 o'clock and 00 min p.m.
)	SUE BEITIA, CLERK

DEFICIENCY ORDER

Plaintiff, a prisoner proceeding pro se, has filed a Complaint in this court that was not accompanied by either a filing fee or an application to proceed *in forma pauperis*. Parties instituting a civil action, suit or proceeding in a United States District Court, other than a writ of habeas corpus, must pay a filing fee of \$350.00 and an administrative fee of \$50.00. See 28 U.S.C. § 1914(a) and District Court Miscellaneous Fee Schedule, ¶ 14 (effective December 1, 2013). This administrative fee does not apply to applications for writ of habeas corpus or to persons who are granted *in forma pauperis* status under 28 U.S.C. § 1915. An action may only proceed without concurrent payment of the filing fee if the party is granted leave to proceed *in forma pauperis* ("IFP"). 28 U.S.C. § 1915(a); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Plaintiff is advised that he or she must either pay the statutory filing fee of \$350.00 and the administrative fee of \$50.00, or submit a fully-completed *in forma pauperis* application within TWENTY EIGHT (28) days (including weekends and holidays) of this Order. Failure to do so will result in **AUTOMATIC DISMISSAL**, of this action for failure to prosecute or otherwise follow a court order. See Fed. R. Civ. P. 41(b); *Olivares v. Marshall*, 59 F.3d 109, 112 (9th Cir. 1995)(stating that the district court may dismiss a complaint for failure to pay partial filing fee); *In re Perroton*, 958 F.2d 889, 890 (9th Cir. 1992) (affirming dismissal of appeal of pro se litigant for failure to pay required filing fees).

Plaintiff is NOTIFIED that, regardless of *in forma pauperis* status, as a prisoner he or she is required to pay the full filing fee: \$400.00 if *in forma pauperis* status is denied, \$350.00 if it is granted. If *in forma pauperis* status is granted, the court will order payments to be withdrawn from Plaintiff's prison trust account when funds exceeding \$10.00 are available. Plaintiff must complete the Court's prisoner *in forma pauperis* application form and include a certified copy of Plaintiff's prison trust account activity for the 6-month period immediately preceding the filing of his or her Complaint. 28 U.S.C. § 1915 (a) (1) and (2).

IT IS HEREBY ORDERED that:

1. The Clerk of Court is **DIRECTED** to send Plaintiff an appropriate copy of the Court's Application to Proceed *in forma pauperis* with the accompanying information sheet.

2. Plaintiff is GRANTED twenty eight days to either pay the \$400.00 filing fee or submit a completed and executed application to proceed *in forma pauperis* on the forms provided by the court with this Order. The application must bear the docket number assigned to this case. Failure to timely file an *in forma pauperis* application or the statutory filing fee within twenty eight days of the date of this Order will result in **AUTOMATIC DISMISSAL** of this action.

IT IS SO ORDERED.

DATED: November 2, 2018 at Honolulu, Hawaii,



/s/ J. Michael Seabright
J. MICHAEL SEABRIGHT
CHIEF UNITED STATES DISTRICT JUDGE